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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,582	05/05/2001	David Andrew D'Zmura		8915

7590 12/27/2002

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EXAMINER

FERNSTROM, KURT

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 12/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/849,582

Applicant(s)

D'ZMURA, DAVID ANDREW

Examiner

Kurt Fernstrom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-33 is/are pending in the application.
- 4a) Of the above claim(s) 4-10, 14, 21, 22, 25, 26, 28 and 31-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13, 15-20, 23, 24, 27, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election with traverse of Group IV in Paper No. 13 is acknowledged. The traversal is on the ground(s) that the various inventions are all related and capable of use together. This is not found persuasive because The inventions are directed towards different methods of doing different things. Although most of the inventions are directed to the field of astrology, and thus in the same general search area, a complete search requires searches in a variety of subclasses, as well as searches in various types of non-patent literature. Because the inventions are related to different methods and apparatuses, and a search for all of them would be unduly burdensome, a restriction requirement was made..

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-13, 15-20, 23, 24, 27, 29 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 appears to be directed to a method

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claim, but contains several apparatus limitations whose function in the method is not clear, including the 30/360 grid, the celestial layout of physical stars and the zodiac symbols and symbol parts. The phrase “determining data of sign positions on said zodiac belt by”, followed by the apparatus limitations previously mentioned, is indefinite because it does not make clear what precise method steps are involved in such determination. Also, the phrase “by operation of claim 6” is vague and indefinite. Also, the phrase “axial component” is vague and indefinite. With respect to claim 12, the phrase “data resources” is indefinite. With respect to claim 13, an apparatus claim cannot depend from a method claim. With respect to claim 15, the phrase “analytic artifacts” is vague and indefinite. With respect to claims 18 and 19, the phrase “data and artifacts” is vague and indefinite. With respect to claim 23, the phrase “or by claim 11” is indefinite because the precise method of determining the data is not clear. With respect to claim 24, it is not clear what precise method steps are involved in “providing an astrological prediction.” With respect to claim 27, the phrase “provided by method of claim 11” is indefinite because the precise method of determining the data is not clear, and because an apparatus claim cannot depend from a method claim. With respect to claim 30, it is not clear what precise method steps are involved in “utilizing coded astrological artifact templates.”

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*Allowable Subject Matter*

4. Claims 11-13, 15-20, 23, 24, 27, 29 and 30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

5. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest a method of creating astrological data having all of the limitations of the claims; in particular the plotting of ecliptic coordinate data of stars, the sun, moon and planets, and then assembling two-dimensional and three-dimensional charts and calculating geometric aspects between the objects at given dates, times and locations.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Concha, Provenzano, Laver, Bailey, Boyd, Mantle, Melguen, Quigley and Winks disclose various astrological devices and methods.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303.

KF

December 23, 2002

*Kurt Fernstrom*  
Kurt Fernstrom